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FISCAL IMPACT STATEMENT

LS 6678

BILL NUMBER: SB 194

NOTE PREPARED: Jan 30, 2004

BILL AMENDED: Jan 27, 2004

SUBJECT: Presumption Concerning Child Sexual Abuse.

FIRST AUTHOR: Sen. Dillon

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that a child is a child in need of services (CHINS) if the child: (1) lives in the same household as another child who is the victim of certain sex offenses; (2) lives in the same household as the adult who committed the sex offense; (3) needs care, treatment, or rehabilitation that the child is not receiving and that is unlikely to be provided or accepted without the coercive intervention of the court; and (4) has been placed in or has been considered for placement in an informal adjustment program.

The bill also establishes a rebuttable presumption that a child is a CHINS if: (1) another child in the same household has been the victim of a sex offense; (2) the offense was committed by an adult living in the household; and (3) the offense resulted in the conviction of the adult or a CHINS adjudication concerning the child victim. It provides that a child presumed to be a CHINS may not be taken into custody or emergency custody unless a court finds cause following a hearing.

Effective Date: July 1, 2004.

Explanation of State Expenditures: (Revised) *Children in Need of Services (CHINS)*: To the extent that the bill adds a new circumstance under which a child is a child in need of services, the bill would increase the number of children who may be declared by a court to be a CHINS.

According to the Family and Social Services Administration (FSSA), there were 972 children who lived in the home of a victim of a substantiated allegation of sexual abuse in FY 2003. Of these 972 children, 125 were made CHINS and 273 had cases opened. This implies that the potential population that could be affected by this provision is 574. The assumption here also is that the 574 children reside in homes where the adult who committed the abuse lives in the same household (i.e., not a neighbor or a relative who does not reside

in the same home). Thus, the total potential population could be somewhat reduced from this number.

However, although 574 children may be the potential population, the bill also provides a few additional conditions before a CHINS determination is made. They are as follows:

- (1) the child lives in the same household as the adult who committed the sex crime and the sex crime resulted in a conviction or a judgment;
- (2) the child is determined to need care, treatment, or rehabilitation that the child is not currently receiving or is unlikely to be provided or accepted without the coercive intervention of the court; and
- (3) a caseworker has determined that a program of informal adjustment or other family and or rehabilitative services is inappropriate for the child.

The offender would still have to reside in the household to justify removal of the child. Although it isn't known how many of the potential population will, in the future, be determined by FSSA and the courts to satisfy these conditions, the maximum potential population would likely overstate the impact. However, some increase in the number of CHINS is likely. The number of additional individuals determined to be CHINS will depend on administrative and judicial determinations.

The average cost of an individual determined to be a CHINS is estimated to be about \$14,500. This estimate can include services provided to children in the home, as well as those required when taking the child out of the home. A portion of the costs can also be reimbursed from federal funds in the IV-E program and TANF EA (Emergency Assistance) program if children are eligible.

Informal Adjustments: The bill requires a caseworker to place a child in a program of informal adjustment or other family and or rehabilitative services before a child can be declared a CHINS. The court may, however, declare the child to be a CHINS if the caseworker determines that the programs are inappropriate. The aforementioned population of eligible CHINS is applicable to this provision as well. In addition, the potential population is affected by the same issues affecting the size of the population, aside from the additional hurdles and provisions described above, as is the CHINS population. The average cost for an informal adjustment is incorporated into the average cost for caring for a CHINS, \$14,500. The actual cost is likely lower due to fewer services being provided. The increased cost for youth placed in a program of informal adjustment or other family or rehabilitative services is indeterminable.

Rebuttable Presumption: Another way that the bill may increase the number of CHINS is the rebuttable presumption that a child living with both the child victim and adult perpetrator of a sex offense is a CHINS. In this case, there are no data to indicate how many children live with both a victim and an offender who has been convicted or had a judgement entered. Given the average minimum sentence for offenders who have been convicted for a sex offense and are incarcerated in a state facility is 14.5 years (based on a one-day snapshot of the sentencing information of the state prison population), children may be close to 18 years of age before an offender is living in the household.

Background on CHINS: When a local office receives a report of allegations of abuse or neglect, they conduct an investigation. If the findings indicate by a preponderance of the evidence that the abuse or neglect did occur, the findings of the investigation will be substantiated. Case services range from offering services to removing a child to substitute care. FSSA estimates the current annual cost of a CHINS case to be approximately \$14,451 per child which includes the investigations performed as well as services provided.

Explanation of State Revenues:

Explanation of Local Expenditures: Depending on the actions of the juvenile court, the child could be placed in an out-of-home setting, increasing the costs to the county that pays for out-of-home costs. Additionally, depending on the financial status of the parents, guardians, or custodians of the child, the court may also incur added expenses for appointing an attorney to represent an indigent parent in a detention hearing.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Trial courts, local law enforcement agencies, county Office of Family and Children.

Information Sources: Family and Social Services Agency, Department of Correction.

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